

Thai Q. Phan
AU 2128
United States Patent and Trademark Office
2/15/2008

Dear Mr. Phan,

I spoke with Mr. Kerry Fries in the OPLA today and have come to understand the issue with items 8 and 10 are that, although evidence, they are not evidence that has been officially "entered", and so may not be referenced in an appeal brief.

As stated in the previously filed brief, with respect to the IDS filed on 10/19/2005 (for material identified on 10/18-19/2005), I believe the problem is not that the fee was missing, but that no affidavit was attached (stating the material was discovered within the previous 3 months, in response to examiner's citation of Xilinx Lawman patent, and not as the result of a foreign patent communication). I will separately file an affidavit shortly asking that it and the 10/19/2005 IDS be entered under 37 CFR 41.33(d)(1).

I will likely not be able to finish a petition for revival from unintentional abandonment by midnight tonight, but am continuing to work diligently towards doing so.

Thank you,
Chris Rode
Waltham, MA
Applicant, PRO-SE
09/278,478